

**HOWARD NEARS
END**

**OF HIS
ARGUMENT**

**FOR LEO M.
FRANK**

Speaks Four Hours
Before

Governor Slaton
Wednesday

DECLARES THE
RECORD

SHOWS CONLEY'S
GUILT

Touches on Physical
Evidence

Testimony of Various
Wit-

nesses and Metaphysical Questions at Length

Contrary to expectations, the Frank Hearing before Governor Slaton was not completed Wednesday morning. At 12:45 p.m. an adjournment was taken until 3:30 p.m. Attorney Howard, who spoke three hours and fifteen minutes Monday afternoon, held the floor throughout the morning and will resume his argument at the afternoon session. It is expected that the Hearing will end during the afternoon.

In resuming his Argument Wednesday morning, Mr. Howard directed the Governor's attention to the contention of Solicitor Dorsey that even with an elimination of Conley's testimony, there is still evidence sufficient to convict Frank.

"This," said Mr. Howard, "brings us back to one of the Fundamental Principles of our Law. If you rely on circumstantial evidence to convict a man, it must be of such a positive character as to satisfy the mind of the Jury. It must be sufficiently strong to exclude every other reasonable Hypothesis."

Mr. Howard then elaborately outlined his contention, in this connection that Conley's evidence against Frank indicates Conley's guilt and Frank's innocence, and that with Conley's evidence eliminated, there is not a single circumstance of sufficient weight to influence a verdict against Frank.

Governor Slaton interrupted to inquire of Solicitor Dorsey whether the indictment found against Frank was before or after Conley began making his Affidavits.

Mr. Dorsey answered that the indictment was returned on the day Conley went through the Pencil Factory with the Officers, that Conley's Affidavit was brought to him while the Grand Jury was in Session, and that after being taken through the Factory, Conley was brought by the Court House. He said further, however, that he did not read Conley's Affidavit to the Grand Jury or take Conley before the Grand Jury to testify. But he did tell the Grand Jury, he said, something about Conley's Affidavit.

Mr. Howard demanded to know whether Conley's Affidavit was given to the Grand Jury and whether it was used as one of the Grounds upon which the indictment was based.

"I had the stuff," retorted Solicitor Dorsey, "but didn't use it. The indictment against Frank was independent of Conley's Affidavit."

Continuing his Argument, Mr. Howard said:

"Let us see what is in the Record, independent of the locus and indicia, that tends to connect Conley with the Crime. Among many other things, we contend that the murder notes establish this connection. There has been a good deal of pamphlet writing, analyzing and speculation, about these notes."

SIMPLE PROPOSITION.

"To my mind, it is a very simple proposition. For many years, I was Solicitor General of a Circuit in the Cotton Belt of Georgia, where the population was composed of three to five Negroes to one white person. I learned to know the Negro and his character very intimately. The Criminal Court practice in that Circuit was

taken up almost entirely with the trial of Negroes for Negro Crimes.”

“My experience led me to understand that in practically every forgery Case in which the Negro was the Principal, the Negro committing the forgery never gave a thought to the Fact that his handwriting would not resemble the handwriting of the person whose name or handwriting he sought to forge. It never occurred to him that he could not in reality imitate another person’s writing, wherefore detection was inevitable.”

“There is a significant reason for this Phase of the Negro character. As a rule, if a Negro writes at all, he writes poorly, and in writing, he does not keep before his mind the standard of example of any one else’s handwriting. Negro forgeries are inevitably met at the threshold with the utter dissimilarity

(Continued on Page Four Column One.)

PDF PAGE 4, COLUMN 1

FRANK HEARING DRAWS NEAR END AT THE CAPITOL

(Continued From Page One.)

between the forged writing and the writing sought to be imitated.

“Then there is another Negro characteristic. When they come to conceal their Crimes and try to place them on the shoulders of other persons, they describe a person as nearly opposite themselves as they can imagine.”

Mr. Howard here read from the murder notes by way of showing how they sought to throw suspicion on a “long, tall, black Negro,” whereas Conley is a short, chunky, Ginger Cake Negro.

“This,” said Mr. Howard, “is a very low order of cunning, and one which in a way is practiced even by birds and beasts. It came up to man through the Process of Evolution and was employed by him in his primitive state, and it continues to be employed by persons of a low Order of Intelligence.”

“The second note was written merely to make more emphatic the purpose of the first note. I call your Excellency’s attention to the different kinds of Paper on which the two notes were written. The first note is cramped in style and ends up with ‘A long, tall Negro, black, that who it was.’ You see, he had passed to the end of his Phrase and had written the word ‘Negro,’ when the antithesis of his color occurred to him and he wrote the word ‘black.’ You will note that he repeats that description through the second note.”

Here Mr. Howard stated that some of the more vulgar portions of the murder notes bore out an idea repeatedly expressed in the Annie Maude Carter notes.

“It is admitted,” he continued, “that Conley wrote the notes and that they were found beside the body.”

Governor Slaton here inquired:

“Is there anything in the Record to show that the desk we saw in the basement the other day was there at the time of the murder?”

Mr. Howard said:

“The nearest approach to that is the Statement of Herbert Schiff and others the work of some Employees required them to write while in the basement.”

Solicitor Dorsey said:

“We denied that the desk was there when the murder was committed.”

Mr. Howard said:

“The Record shows that Employees wrote there and had the materials there for that purpose, that there is a gas light over the spot where the desk now stands, and the Record of the Extraordinary Motion shows that the desk was there when the murder was committed.”

DORSEY CAN'T DISPUTE IT.

Solicitor Dorsey:

“I am not prepared to dispute that it is in the Record of the Extraordinary Motion.”

Mr. Howard:

“We contend that the evidence shows that the Yellow Note Paper was in the basement, that Conley got it there and wrote the notes there. The Record shows conclusively that no original pieces like the Order Blank were in the Stock of the Pencil Factory, and the Office next to Frank, or in Frank's Office. A man named Becker, a former Employee of the Factory, did use Order Blanks like this one, but they had been carried to the basement. The evidence for the State is that when Becker left the Factory that Order Blank could have been and was in Frank's Office. But we will show you that such could not have been the Case.”

“First, I call your attention to the dim Signature of Becker, reproduced by the Carbon under the Order Blank. It has a flourish turned back over the name like a Scorpion’s tail. This Yellow Sheet was used under a Carbon, and over the Carbon was the original White Sheet Order Blank.”

Governor Slaton:

“Why were the Carbon Copies not kept permanently on file?”

Mr. Howard

“They were for a time, but when the permanent Book Record was made from them, they were thrown away with other Waste Paper into the basement.”

Solicitor Dorsey:

“We challenge that.”

Mr. Howard:

“We invite, your Excellency, the closest scrutiny on the point, for we have definite and irrefutable evidence.”

Continuing:

“Just before Becker left the Employ of the Pencil Factory he bundled up all the used Order Blanks, from which the Book Record had been made, including the Series including this particular Yellow Sheet, and sent them to the basement to be burned.”

SLATON INTERRUPTS.

Governor Slaton:

“Is Becker now associated with any Allied Branch of the Pencil Company?”

Mr. Howard:

“He is not.”

Solicitor Dorsey:

“Do you mean to say that we did not contradict Becker’s evidence by three Witnesses?”

Mr. Howard:

“Oh, yes, and I am going into your evidence as fully as I can remember it.”

Continuing, Mr. Howard said:

“Now Becker swears positively that he did send to the basement that Series of Order Blanks. We cannot prove by an Eye-Witness that the Pad was burned, but the testimony shows that it was taken to the basement. Unless Becker is perjured, this Yellow Sheet was not in Frank’s Office, when the Crime was committed. I call your Excellency’s Attention to the figures, ‘190—,’ in the space for the date. This shows that the Order Blank was discarded after that. The New Series, the one now in use, carries the figures, ‘191—’.”

Governor Slaton:

“Was Becker there in 1909?”

Mr. Howard:

“Yes.”

Continuing:

“The testimony shows that the ‘190—’ Series was not used after the close of the year 1909, and Becker swears most positively that he sent all old Order Blanks of that Series to the

basement to be burned. A close scrutiny of this Paper shows that the Order Number is 1018, and we tender this Order (handing the Governor an Affidavit) number 1018, dated September 16, 1909. This corroborates the Statements that these Blanks were in use prior to 1910.”

STATE DIDN'T CONTRADICT.

“Now the State appears to contradict the testimony of Becker, but you will find nowhere in the Affidavits of the State any Statement relative to the date line ‘190—’ and the date line ‘191 —.’ So, you see, your Excellency, that the evidence of the State passes the evidence of the Defense as ships pass in the ocean. When testimony clashes, Perjury is made, but when testimony passes, however closely, but does pass, then the testimony of each Witness retains its value. I think this shows another contradiction of Conley. He swears that the notes were written in Frank’s Office on Paper found there. The evidence shows that the Paper was not in Frank’s Office, could not have been there, and was in the basement instead. It is an incontrovertible Fact that the Paper was found in the basement and the notes written there.”

At this point, Governor Slaton interrupted to ask Mr. Howard to discuss the small amount of blood that was found at the Factory. The Governor said his understanding of the Record there seemed to have been only a small amount found near the machine, or alleged to have been found, nor any very great amount alleged to have been found on the way to the elevator.

GOVERNOR DOUBTS.

Solicitor Dorsey here called attention to the Fact that the hair found on the lathe handle was matted with blood and that in this way the blood was prevented from reaching the floor.

Governor Slaton expressed the Opinion that a blow such as that on Mary's head would have bled much more freely than the traces seemed to indicate. He asked Solicitor Dorsey to describe the wound as accurately as he could. The Solicitor, with Mr. Howard's help, described it as being five inches above and behind the left ear, two and one-half inches long, and cut to the skull.

A Newspaper Man present passed a note to the Solicitor stating that he saw the body of Mary Phagan and that her hair hung down her back in a single plait. The note was passed to the Governor, who marked it as an exhibit and laid it aside. Attorney Howard remarked that the hair plaited would not absorb a great deal of blood.

Continuing his Argument, Mr. Howard reverted to evidence and declared that it was of such character as would justify a conviction of Conley for the murder, unless, he emphasized, the Negro could make a credible Defense.

"Now Conley does make a Defense," said Mr. Howard, "he defends himself by attempting to prove that Frank was the murderer. Such a Defense would be sufficient we admit if the Negro, could corroborate every detail of his story. But his testimony must be corroborated in the minutest detail."

"Now the question is, does his alleged corroborations or the corroborations of the Prosecution stand as truth?"

Here Mr. Howard quoted almost verbatim from memory, Conley's Statement, in which he told of Frank's admission, that he had knocked down a little girl. He quoted also Conley's Statement as to the finding of the body.

He declared that the Prosecution set up two Primary Facts as corroborating Conley. First, the finding of hair on the lathe handle in the Metal Room. Second, the discovery of blood at the corner of

the Dressing Room. He admitted that the establishment of these Facts, beyond all question, would tend to corroborate the Negro's testimony.

HAIR ON LATHE.

"But," said he, "these facts must be established beyond the shadow of a doubt. There must be no question at all regarding them. Justice, fairness, and the Voice of God demand that if the blood of this man is to be shed, it must be shed by Mary Phagan's hair and not by hair that merely 'looked like hers.'"

Mr. Howard then read the testimony of Magnolia Kennedy, in which she swore that the hair found on the lathe "looked like" the hair of Mary Phagan. He stressed the Fact that Magnolia did not identify the hair positively. He then told of the finding of the hair by Barrett on Monday morning after the discovery of the Crime. He said it was wrapped around the handle of the lathe some 10 or 12 feet from where Mary Phagan worked. He dwelt upon the Fact that there was a difference of Opinion among the Employees, all of whom knew Mary, as to whether the hair was hers or somebody else's.

He declared that he himself could not describe positively and with indisputable accuracy the color and shade of the Governor's hair.

"Only profound experts can determine these things," he said, following which he took up the testimony of Dr. H.F. Harris. He admitted that Dr. Harris is a competent expert to give testimony as to human hair, and declared Dr. Harris made a Scientific Examination of the hair found on the lathe handle."

"And," said he, returning to the Solicitor, "without knowing positively, I believe Dr. Harris admitted to and informed the

Solicitor that he was not positive whether the hair was that of Mary Phagan.”

DORSEY MAKES ADMISSION.

Solicitor Dorsey freely admitted that Dr. Harris had made such a Statement to him.

Governor Slaton interrupted to ask if the Undertaker who had prepared the body for burial had not washed the hair and subjected it to chemical treatment which might have changed its texture.

Attorney Howard said perhaps Solicitor Dorsey could answer this question.

Solicitor Dorsey said the Undertaker did wash the hair and subject it to such a treatment.

Mr. Howard:

“But the State could not prove that it was her hair, and because they have difficulty in proving it, they ask us to render up our life. The State commanded Dr. Harris to make an exhaustive and thorough Examination, and his answer was that he could not say whose hair it was that Barrett found on the lathe. Are we to be told that our life is forfeit on that answer?”

Governor Slaton:

“Was there not something about a difference in the diameter of the hair?”

Solicitor Dorsey:

“We showed that hair is larger in diameter near the scalp and that hair grows and changes even after her death.”

Governor Slaton:

“Was the hair found on the roller of Barrett’s machine or the handle?”

Solicitor Dorsey:

Mr. Howard:

“Yes, on the handle that is like a windlass on a well.”
Reading, from Dr. Harris’ testimony, Mr. Howard continued:

““The two particles resembled each other, but I could not possibly say that it was her hair. Mr. Dorsey did not appear to pay any attention to the matter and I remember mentioning in casual conversation, that my impression was that the two sections of hair were different.””

STATE FAILED TO PROVE.

“Gheesling said he washed Mary’s hair with pine tar soap, which rendered it lighter in color and took out the oils usually found on the hair of a living person, as well as taking out the dirt. It is their problem to prove that the hair found on the lathe was Mary’s hair. It is the State’s responsibility. The State has failed to carry the burden, yet still it demands that we pay with our life.”

“Now we will take up that machine handle where the hair was found, and on which the State claims she struck her head. That point would make a puncture. The sharp point of any instrument that is rigid will puncture, not cut, unless drawn across the scalp. Yet the cut in Mary Phagan’s head was 2 1-2 inches and had the appearance, according to one Witness, of having been struck from below upward. The cut went through the scalp to the skull. Mary Phagan was a healthy, well-developed young girl. Her body was full of blood that coursed through her veins every second, and yet there was no blood under that machine. The cut went through to the bone; it severed arteries, and veins, and even

Dr. Harris testified that a cut of the character is certain to bleed. Gheesling on Direct Examination said the little girl must have bled a great deal. On Cross-Examination bled a great deal. On Cross-Examination (Mr. Howard turned and looked at Solicitor Dorsey) he must have been under your hypnotic influence, for he said the girl did not bleed much. Any man knows that a wound of this character, inflicted at the machine, would have left on that spot the evidence of eternal truth. Yet there was no blood by the machine."

"You say she staggered thirty feet away from the machine to the point where Jim Conley found her. If she had staggered or walked that distance, the blood would have come down in a torrent to the floor and to her shoulders. But there was no blood on floor, or above the waist."

Governor Slaton:

"To what extent was there blood in her hair?"

Solicitor Dorsey:

"The hair was saturated with blood."

Mr. Howard:

"You can't get away from blood when you have it, and when you haven't got it, your Case is fatally defective."

At this point, Mr. Howard started reading from the Brief of evidence. Solicitor Dorsey objected, saying: "That is not the testimony." Mr. Howard. "But it is the Record, Mr. Dorsey, certified to by the Court." The Solicitor admitted that it was the Brief, but said it was written by the Defense, and when it was allowed by Judge Roan, he had his letter saying the Brief was not fair to the State.

Mr. Howard, continuing, read from that portion of Jim Conley's testimony on the Stand where the Negro said he wrapped up the body in a piece of striped bed ticking and dropped it on the spot where a peculiar stain smeared over with Hascolene was found.

"I call your Excellency's attention to the Fact that it was Barrett who found this spot," said Mr. Howard. "Barrett, who was then talking of the amount of the Reward." Barrett, who was on a cruise of discovery, and who had in his mind the gold of his goal. That man found the hair and then he found blood spots big enough to convict the whole tribe of Judah, much less one of his descendants."

LESS THAN DROP OF BLOOD.

"Now let us see what Dr. Claude Smith, an Officer of the City and a Witness for the State, had to say concerning these spots. Four, five, or six corpuscles of blood, were under the field of the Microscope. If the rest of the spot showed the same amount of blood, it must have totaled as much as one-half of one drop. He could not tell how old the blood was, for he said corpuscles of blood had been in his laboratory for as long as two years. The girl's head struck on the lathe, she staggered thirty feet, and the body was carried seventy feet with the head downward. Yet there was less than a drop of blood left to mark her journey. I tell you that blood spot looks mighty like the hair on the lathe. Science refutes Barrett on both points; common sense rejects his discovery. And such, your Excellency, is the character of evidence relied on to support Conley, the Perjurer.

"Would you take our blood because of the blood that Barrett made with an Aniline Dye?"

Continuing, Attorney Howard further discussed the blood evidence, and by way of disproving the State's contention that the murder took place on the second floor, he called attention to the testimony of Detective Starnes, who swore that he found "a nail about fifty feet this side of the Metal Room that looked like it had blood on it."

"On a nail head," exclaimed Mr. Howard. "No blood at the lathe; no blood at the elevator, no blood in the elevator; no blood at the bottom of the elevator, where the body was rolled out, as Conley says."

STRUCK AFTER DEATH?

Here, Mr. Howard handed the Governor a Photograph of the basement showing the scraps of paper, trash, etc., and called attention to the Fact that no blood was found on any of these, although the Detectives testified that the hair was matted with blood and that some blood was found under the body.

He said he felt justified for the moment in taking the Stand, like Solicitor Dorsey, and on a conjecture.

"It is my belief, or my conjecture," he said, "that the blow on the head was struck after Mary Phagan had been strangled to death, and that the blood found in her hair and underneath her head trickled out by gravity. This would measurably account for so little being found. The blow, I believe, was struck in the back of the head to make certain that the victim would not recover. However, I cannot make evidence, and I cite this, only as a conjecture."

Passing from the discussion of blood, Mr. Howard took up the testimony of Conley relating to the piece of striped bed ticking, in which he claimed the body was wrapped and carried. He emphasized with much force that this was a piece of physical

evidence which could never be produced to corroborate Conley's story. He called attention to the Fact that no one who ever worked on the second floor could recall ever seeing such a piece of cloth on that floor, either before or after the murder. He declared such testimony, if it had been offered, would have been strongly corroborative of Conley's story.

"What Function would there have been, or was there, for bed ticking on the second floor?" interrupted Governor Slaton.

Mr. Howard replied:

"The story of the bed ticking was Conley's invention. He invented this when he suggested to himself that the piece of crocus sacking which he first mentioned would not have been large enough to wrap around a body."

CONLEY'S INVENTION.

"Now, if there had been any bed ticking on that floor, somebody inevitably would have seen it. But it was never found, and it wasn't found because it didn't exist. It was purely and simply an invention of Jim Conley's imagination. The hat and parasol were found, but no bed ticking."

Before passing from the physical to the metaphysical aspects or evidences in the Case, Mr. Howard was interrupted by Governor Slaton, who asked the questions. The first related to the kind of a hat Mary wore. He asked if it showed any sign of damage, or if it was such a hat as to break the force of a blow. Mr. Howard replied that the Record showed that the hat showed signs of being broken.

"And right here," said Mr. Howard, "I want to make another conjecture. It is the custom of ladies to carry their handkerchiefs in their mesh bags, but in this instance, we find the little girl's

bloody handkerchief without finding the mesh bag or the money. The incentive for Robbery was not there. It had disappeared. Just here I want to call attention also to Conley's chosen means of escape, his private way, the Route he chose as a means of dodging his Creditors."

Governor Slaton here said:

"If that was true, what was the need of drawing the staple?"

Mr. Howard answered:

"That was Conley's problem. He told the Jury, he tells you in the Record, that the basement door was his Secret Route. It was on his way home, his nearest way, and here again, we have physical evidence which has disappeared. It is in the testimony, it is in the Record right here, that blood spots were found on or near the door about the height of man's head. They were chipped off. They are gone, and never reappeared."

Governor Slaton asked:

"Whose testimony was that?"

Mr. Howard in reply read the testimony of Detective Starnes.

"Before you pass to the metaphysical aspects of the Case," said Governor Slaton, "'I hope you will discuss the testimony of Conley concerning the excrement in the elevator pit. He testified that on Saturday morning, he made the deposit there himself."

Welcoming the Governor's suggestion, Mr. Howard proceeded to discuss this Feature of the evidence exhaustively.

"When the Officers first visited the

(Continued on Page Five Column Three.)

**HOWARD NEARS
END**

**OF HIS
ARGUMENT**

**FOR LEO
M. FRANK**

(Continued from Page. 4.)

Factory," he said, "it is shown by the Record that they did not use the elevator. They entered the basement through the trap door on the first floor. It is established by the testimony of others, and by the testimony of Conley himself, that the elevator or its descent stopped itself flush with the dirt floor of the shaft. Some witnesses testified how it fetched up with a slight thud. Others said the noise of the impact was scarcely perceptible. But all agreed that it struck flush against the earth."

“Now it is the testimony of Boots Rogers that when he went down the elevator for the first time, on Monday—and this was the first time the Elevator was used—the contact of the Elevator with the bottom of the shaft smeared or scattered the excrement, producing an odor which attracted his attention.”

“Conley himself told the Jury, tells you in this Record, that he himself made this deposit in the elevator shaft Saturday morning. The conclusion, therefore, is inevitable, that the elevator was not used between the time the Deposit was made and the time when Boots Rogers, Monday morning, went down on the elevator.”

Solicitor Dorsey was on his feet.

“These Facts,” he said, “Are converted. The elevator might have been stopped before it went all the way to the bottom of the shaft.”

To this, the Governor observed that when they went to the Factory on their recent visit the elevator chain was coated with rust, indicating that it was used but little as a means of controlling the elevator to cause a stop before the elevator reached the bottom.

HOWARD PRESSES POINT.

Attorney Howard pressed his point with great emphasis, quoting from Conley’s testimony and from the testimony of Boots Rogers, to support his contention that the elevator stops itself automatically when it reaches the bottom of the shaft.

Coming now to the metaphysical Features of the Case, Attorney Howard read the testimony of Jim Conley relating to the preparation of the murder notes. He then quoted from the speech of Solicitor Dorsey in which the latter sought to fix guilt upon Frank by his deductions from these notes.

“The notes,” said Mr. Howard, “are written mostly in monosyllables. The words are short. There are sixty-four of them. The average number of letters per word is 3.6. The Annie Maude Carter notes bear a striking resemblance to the murder notes. The Solicitor emphasized the use of the word ‘did’ in the murder notes. That is very important, the Solicitor contended, because the word was not one a Negro would use, and from this he attempted to show Frank’s authorship. Now, your Excellency, Conley’s testimony before the Jury shows that he used the word ‘did’ no less than sixty times. He used it also in the Annie Maude Carter notes.”

“An Examination of the Annie Maude Carter notes and the murder notes shows that he used the word ‘like’ to convey the same meaning, it being used instead of ‘as if’ in all these notes.”

TILT WITH DORSEY.

Mr. Dorsey, after a little tilt with Mr. Howard, stated that the evidence conceded the notes to be Conley’s, but that the State showed they were obtained by fraud. Mr. Howard then gave the Governor a brief history of the Annie Maude Carter notes.

Governor Slaton asked if there was anything in the Record to show that anyone had dictated the Annie Maude Carter notes. Mr. Howard answered:

“No, there is no attempt even to show that they were dictated,” Governor Slaton asked this question:

“If Conley admits writing these notes, how could he deny writing the vulgar parts of them?”

Mr. Howard replied:

“Oh, that could be done, your Excellency. It is often done by the ostrich.”

Mr. Howard then handed the Annie Maude Carter notes to the Governor, asking him to read them and saying:

“I will not read them aloud for those words will pollute the atmosphere of the Black Hole of Calcutta. I call your attention to them because they show the character of mind that would fit in with the Crime at the Pencil Factory. I also call your attention to the like use of words in these notes and in the murder notes. They show that the murder notes were written in Conley’s own words and in his favorite words. The same mistakes of grammar are made in the two series of notes, and the same correct Phrases are used in each. Conley says that Frank had him write four notes, and he says he wrote them in two minutes. You couldn’t write four notes in that time.”

HOW CONLEY GOT IDEA.

“I will now explain how Conley got the idea of charging that the notes were dictated.”

“Before Conley had made any Admission at all, the Detectives time and time again dictated the very words of these notes to him and had forced him to write the very words. His passing through this experience must have given him the idea of charging that the notes were dictated.”

At this point, Governor Slaton said:

“Mr. Howard, would you say that the words you have asked me to read would indicate perversion?”

“No, I would not, Burns or anyone else who contends that simply doesn’t know a Negro.”

Governor Slaton here adjourned the Hearing until 2:30 o’Clock in order to hear from a Delegation from Newton County in connection with another matter.”

**EX-GOVERNOR
BROWN**

**REPLIES TO MR.
HOWARD**

Statement About
Pardons,

Made on Frank
Argument,

Incorrect, He says

Editor *The Journal*:

I was quite surprised to note that Hon. W. M. Howard, in his speech before Governor Slaton advocating the Commutation of the Sentence of Leo M. Frank, made a Statement so easily shown to be incorrect in its very essence when he said:

“On June 18, 1913, which was nine days before Governor Brown went out of Office, he issued forty pardons.”

As a matter of Fact, this was simply a Ministerial Act provided for by the Law governing the Parole of convicts.

I well remember that several days before I retired from Office, the Prison Commission sent to me several dozen Sets of Papers referring to as many convicts who had been paroled by Governors Hoke Smith, Governor Slaton, and myself. Quite a majority of these paroles had been granted by my two predecessors.

Section 1227 of Volume 2 of the Code of Georgia provides how paroled convicts may, after conducting themselves acceptably to the Prison Commission for at least twelve months, be granted Full Pardons.

The Prison Commission in each of the above Cases reported that the paroled man had conducted himself acceptably since the date of his Parole by Governor Smith, Governor Slaton, or Myself,

and recommended that he be now granted a full Pardon as provided for by Law.

Under these conditions, I, of course, obeyed the intent of the Parole Law and followed the unbroken Custom of the Executive Office in substituting Pardons for Paroles. The men were already free.

But what Application, let me ask, does the above Act have to the Case of Leo M. Frank? Not one of the forty paroled men in question had been sentenced to Death. The Crimes they had committed had not caused either the Jury or the trial Judge to hold that they should suffer Death. The crime that Frank committed had caused both the Jury and the trial Judge to hold that Death was the proper penalty for him. The Crime that Frank committed had caused both the Jury and the trial Judge to hold that Death was the proper Penalty for him. And two Supreme Courts have upheld the action of the trial Court, the Supreme Court of Georgia distinctly saying: "We have given careful consideration of the evidence, and we believe that the same is sufficient to uphold the verdict."

Respectfully,

JOSEPH M. BROWN.

Marietta, Ga., June 15, 1915.

PDF PAGE 9, COLUMN 2

**NEW FRANK CASE
RUMOR**

CIRCULATED

WEDNESDAY

Story Told by Federal Prison

Negro Not Credited by

Frank's Lawyers

A Report which gained considerable Currency Wednesday, but which turned out to be of no importance and with but little Foundation, was to the effect that a Negro Prisoner at the Atlanta Federal Prison known as "Diamond George" had confessed that he had knowledge that Jim Conley murdered Mary Phagan, that the little girl's mesh bag which disappeared at the time of her murder and has never since been seen, was in the possession of a woman named Robinson, now residing in Mobile, and that a Guard at the Federal Prison had gone to Mobile to see the woman get the mesh bag.

This Report, when investigated by a Journal Reporter, appeared to get its origin from Statements made to a Guard at the Federal Prison by a Negro Prisoner named Frank Reed, alias "Diamond George." The Negro, it is said, claimed that he knew that Conley had murdered Mary Phagan and that he protected Conley by keeping this Fact a Secret. He also told the Guard that he knew the Negro woman who had possession of Mary Phagan's mesh bag, but refused to tell the woman's name or aid in recovering the bag.

The reason he gave for not furnishing the woman's name was that he was afraid both he and the woman might be indicted as being Accessories after the Fact in the murder.

The Guard later notified Attorney Luther Z. Rosser, who has been a member of Frank's Counsel since he was first arrested, but who has taken no part in the Hearings on Frank's Petition for Executive Clemency. Mr. Rosser had one or two interviews with the Negro, but never used his Statement because, as he explained, it was worthless without the production of the mesh bag.

When asked about the Negro's story Wednesday Mr. Rosser said:

WHAT ROSSER SAYS.

"It is true that several weeks ago, a Guard at the Federal Prison was approached by a Negro in that Institution, who was sentenced under the name of Frank Reed (I understand that he also goes under the name of 'Diamond George'), and represented to him that he did know about the Phagan murder; that Conley was the man who committed the Crime, and that he, the convict, had under his control, thought not in his immediate possession,

the mesh bag, so much talked about in the Murder Case, and a card in that bag showing that it belonged to Mary Phagan."

"As has been our custom with many other Reports brought to us, we investigated this Report to see if there was anything in it. I had two interviews with the Negro in the presence of a Federal Guard, after a Conference, with the Warden."

"The Darky asserted to me the same things he had previously stated to the Guard. I explained to him that nobody would believe him unless he would, in Fact, produce the two articles referred to, and as they were not produced there was no thought of using his story."

"Certainly, no one would credit us with being foolish enough to use it unless he produced the mesh bag and the card which he claimed to have had."

"It is our information that the Negro has enlarged his story to some of the Guards at the Prison."

"If anybody has gone out of the State seeking a woman with this purse, I know nothing of it."

Warden Fred Zerbst, of the Prison, stated Wednesday that the Report that a Prison Guard had gone to Mobile to see a woman about the mesh bag was absolutely without Foundation.
